

Members

Sen. Patricia Miller, Chairperson
Sen. Robert Meeks
Sen. Connie Lawson
Sen. Rose Antich
Sen. Vi Simpson
Sen. Sam Smith
Rep. Charlie Brown
Rep. William Crawford
Rep. Clyde Kersey
Rep. David Frizzell
Rep. Mary Kay Budak
Rep. Tim Brown



SELECT JOINT COMMISSION ON MEDICAID OVERSIGHT

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MEETING MINUTES¹

Meeting Date: July 2, 2003
Meeting Time: 10:30 A.M.
Meeting Place: State House, 200 W. Washington
St., Senate Chambers
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Sen. Patricia Miller, Chairperson; Sen. Robert Meeks; Sen. Rose Antich; Sen. Vi Simpson; Sen. Sam Smith; Rep. Charlie Brown; Rep. William Crawford; Rep. Clyde Kersey; Rep. David Frizzell; Rep. Tim Brown.

Members Absent: Sen. Gary Dillon; Rep. Mary Kay Budak.

Chairperson Senator Patricia Miller called the meeting to order at 10:40 a.m. Senator Miller opened the meeting by introducing the Commission members.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

EDS Update- Mary Simpson, EDS

Ms. Simpson provided an update on Medicaid claims processing. (See Exhibit 1). The exhibit includes the following information on the state Medicaid program: quarterly figures on the number of dollars paid and allowed and the number of claims paid, denied, or adjusted; the number of eligible and receiving recipients; and the number of enrolled and participating providers. Ms. Simpson stated that the average claim adjudication takes less than three days.

Medicaid Update- Melanie Bella, Assistant Secretary of the Office of Medicaid Policy and Planning (OMPP)

Ms. Bella updated the Commission on OMPP's implementation of 2002 legislation and 2003 legislation. (See Exhibit 2 for a summary of Ms. Bella's testimony).

Disease Management

Indiana's disease management program focuses on developing a link between health care management and primary care. The program provides primary care providers with tools to help better care for chronic diseases and provides chronic disease patients with self-management tools to allow the patient to be an active participant in the patient's health care. OMPP has been working together with the Indiana State Department of Health (ISDH) with the goal of strengthening the existing public health system and improving quality of health care in Indiana. Ms. Bella set forth the implementation dates for specific diseases included in the disease management program (See Exhibit 2, page 2). Ms. Bella also provided the Commission with Indiana's Chronic Disease Management Collaborative Charter. (See Exhibit 3).

The Commission discussed a report by the Department of Corrections that showed a high rate of HIV and other chronic diseases in inmates. A Commission member requested that OMPP look into tracking HIV and chronic disease statistics for other populations within the state.

Preferred Drug List

The state's Medicaid preferred drug list is developed and implemented in conjunction with the Therapeutics Committee, the Drug Utilization Review Board, and the state's pharmacy benefit manager. The first class of drugs within the preferred drug list was implemented in August, 2002. State law requires that the list be reviewed twice per year. For 2003, the review will occur in August and November. In subsequent years, the review will occur in February and November. The first review of the preferred drug list will take place August 1, 2003.

In response to questions, Ms. Bella stated that she would have the Drug Utilization Review Board review the prescribing of Ritalin for children. A concern was also expressed that parents were not being informed of their child being prescribed Ritalin and requested staff to obtain Pike Township's school policy on prescription drugs for children at school.

Provider Reporting

The 2003 budget bill contains a provision that requires any provider that is reimbursed by OMPP for goods or services provided to Medicaid recipients to report to OMPP all rebates, discounts, and other price concessions that the provider receives from

a supplier of goods or services. OMPP sent a survey and draft reporting form to provider associations in May requesting input and feedback. OMPP received little feedback. OMPP will be issuing a detailed provider bulletin at the end of July concerning the reporting requirement. The first reporting period is July 1, 2003, through September 30, 2003.

The Commission discussed the difficulty a provider may have in determining what needs to be reported to OMPP and the intent of the legislation.

Mandatory Risk-based Managed Care

The 2003 budget bill allows OMPP to expand the mandatory risk-based managed care program to any county where the program would be feasible and cost effective. OMPP has identified two counties, Laporte and Porter, to transition into the program in the fall of 2003 and six possible counties with a target transition date of 2004 (See Exhibit 2, page 3).

Ambulance Provider Add-on Payments

The 2003 budget bill contains a provision that allows OMPP to make add-on payments to ambulance transportation providers to help leverage federal funds. OMPP has submitted the amendment to the state Medicaid plan to the Centers for Medicare and Medicaid Services (CMS). CMS has ninety days to review the amendment. OMPP has requested a July 2, 2003, effective date for the add-on payments if CMS approves the amendment.

ICHIA

Ms. Bella informed the Commission that OMPP, Doug Stratton (ICHIA), and Tim Kennedy (Indiana Hospital and Health Association) have been working on a strategy to apply for a Medicaid waiver to allow leveraging of federal funds on the ICHIA assessments. OMPP is currently attempting to identify ICHIA providers that are also Medicaid providers and is analyzing Medicaid expenditures for these providers. An amendment to the state Medicaid plan will need to be submitted to CMS in order to leverage any federal Medicaid dollars. Ms. Bella stated that the target date for submitting the amendment is September, 2003.

Federal Relief

Ms. Bella stated that approximately \$168 million in additional federal relief for Medicaid will be available to Indiana. In response to questions concerning how the money would be spent, Ms. Bella stated that a decision had not been made yet but that OMPP was considering creating a Medicaid reserve fund.

Medicaid Spenddown

Ms. Bella updated the Commission on a lawsuit that was filed against FSSA concerning a change in policy regarding the calculation of the "spenddown" provision in determining Medicaid eligibility for aged, blind, and disabled individuals whose income is more than the state's Medicaid allowable standard. (Ringo, et al. v. John Hamilton, et al.). The Hamilton Superior Court issued a temporary restraining order on June 30, 2003, enjoining FSSA from implementing the change in policy. A preliminary injunction hearing is set for July 15, 2003.

Ms. Bella stated that the policy change is not due to the state's fiscal problems, but instead, is the result of FSSA's attempt to comply with federal law (42 C.F.R. 435.121). The policy change would prevent including medical expenses that are paid by a third-party insurer or Medicare in the calculation of an individual's spenddown. Ms. Bella stated that money paid under a state health program (e.g. CHOICE) which uses all state dollars may be counted in calculating an individual's spenddown.

The Commission requested staff to provide the Commission with a list of the state health programs that may be counted in calculating spenddown if FSSA's change in policy is implemented.

Nursing facility assessment

The 2003 budget established a nursing facility assessment fee. OMPP has filed the required public notices needed to submit a waiver and state Medicaid plan amendment to CMS, thus preserving the July 1 starting date requirement set forth in the budget. The budget provision requires 80% of the assessment (approximately \$229 million) to be used by the nursing facilities and 20% of the assessment (approximately \$21 million) to be used by OMPP. The provision further states that OMPP may not make any change to the nursing facility reimbursement unless the Commission recommends the reimbursement change.

Ms. Bella stated that the three nursing facility associations have an initial proposal in distributing the 80% which would make increases to case mix reimbursement rate components and which would also allow a "plug" payment of \$8.33 per bed per day to participating nursing facilities. The nursing facility associations' proposed "plug" amount is approximately \$83 million of the \$229 total that would be returned to the nursing facilities. OMPP is concerned with adding this much money to the nursing facility system without tying the money to quality measures. This amount would enrich every nursing facility regardless of the quality of care a Medicaid recipient receives at the nursing facility.

OMPP offered alternative proposals for distributing the \$83 million portion. These alternatives include: an add-on payment for the care of Alzheimer's patients, the creation of a nursing facility conversion or closure fund, increases in the capital component of case mix reimbursement, changes to the case mix profit ceilings, or the creation of a quality assessment payment based on the results of the nursing facility's survey conducted by ISDH. OMPP states that these alternatives better reflects OMPP's overall policy objectives. Ms. Bella provided the Commission with a document detailing the proposals. (See Exhibit 4).

Public Testimony

Medicaid Spenddown

Mr. Scott Severns, plaintiffs' attorney in the lawsuit against FSSA concerning Medicaid spenddown, explained to the Commission the complexity of the existing Medicaid spenddown process. Individuals who participate in Medicaid spenddown often have to schedule medical treatment for the beginning of a month in order to "turn on" the individual's Medicaid eligibility. Mr. Severns stated that one of the issues in this lawsuit is whether FSSA is required to make this change in order to comply with federal law. An exception exists within the federal law which may allow a state to use the state's 209(b) status under the federal SSI program to allow for a more liberal process. Mr. Severns stated that it is difficult for a Medicaid recipient to predict whether Medicare or a third-party insurance company will cover a claim, thus making FSSA's policy change in determining

spenddown impossible. (See Exhibit 5).

Ms. Nettie Gibson, a Medicaid spenddown participant, stated that if this change in policy occurs, her medical expenses will greatly increase and she will have to decide between food for her child or her prescriptions. Ms. Gibson is currently waiting for a kidney transplant and stated that she would not be able to afford the upkeep of a transplant if this change occurs.

Dr. Michael Krause clarified the expenses involved with dialysis and transplants, including transportation and medication. Dr. Krause stated that he opposes the change in the Medicaid spenddown.

Mr. Ronnie Graves, Medicaid spenddown participant, stated that he will not be able to afford his medications if the change in Medicaid spenddown occurs.

Sen. Miller stated that Sen. Breaux has written a letter to the Commission expressing her concerns about the proposed changes to Medicaid spenddown (See Exhibit 6).

Provider Reporting

Mr. Tim Kennedy, representing the Indiana Hospital and Health Association, stated that the budget provision concerning provider reporting does not clearly state what is to be reported and for what purpose. Mr. Kennedy requested that the Commission review the language.

Mr. Mike O'Brien, representing the Indiana State Medical Association, stated that the provider reporting language in the budget is too broad and requested a determination of the scope and intent of the language.

Nursing Facility Assessment

Jim Leich, representing the Indiana Association of Homes & Services for the Aging, stated that he has historically opposed a provider assessment because the previous proposals also assessed facilities that do not participate in Medicaid. However, this year's proposal has alleviated many of his concerns and he believes that expiring the assessment after one year allows a review of the assessment. Mr. Leich said that he has been working with OMPP on the "plug" or "supplemental funding" issue and believes that other options need to be looked at in the next month. However, Mr. Leich stated that he has concerns with basing any of the payments on nursing facility surveys. Mr. Leich informed the Commission that his association has had 14 members close facilities this year.

Steve Albrecht, representing the Indiana Health Care Association, stated that the intent of the legislation would succeed if the test required to obtain approval of the waiver by CMS was met and if nursing facility providers were not hurt. Mr. Albrecht stated that there has not been time to look at alternatives to the "plug" or "supplemental funding" option. Other options will be explored. Mr. Albrecht also expressed concerns with basing payments on ISDH survey results, stating that these surveys are very subjective. The supplemental funding places funding back into the nursing facility system that has seen many cuts in the last two years.

Vince McGowan, representing the Hoosier Owners and Providers for the Elderly (HOPE), clarified that OMPP has not tried to change the 80% reimbursement that is

required in the budget since the budget passed. Mr. McGowan stated that he believes that other alternatives to the two proposals currently on the table exist but that there has not been enough time to pursue these alternatives. Mr. McGowan indicated that these alternatives would be considered in the next month and expressed his intent to continue to work with OMPP. Mr. McGowan stated that he was also concerned about basing a payment on the ISDH survey results because of the subjectivity of the surveys, and stated that such a basis would result in an increase in administrative survey appeals.

Melissa Durr, representing the Area Agencies on Aging, stated that she was encouraged about the creativity of the proposals for the distribution of the money.

Commission members requested that any proposals concerning the nursing facility assessment be sent to members before the next meeting for review.

The Commission discussed possible dates for the next meeting but could not reach a consensus. Senator Miller adjourned the meeting at 1:45 p.m.